



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

WILLIE LEWIS MARTIN,
Petitioner,

vs.

WARDEN,
Wateree River Correctional Institution,
Respondent.

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CIVIL ACTION NO. 0:09-1886-HFF-PJG

ORDER

This case was filed as a 28 U.S.C. § 2254 action. Petitioner is proceeding pro se. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting that the Petition in the above matter be dismissed without prejudice and without requiring Respondent to file an answer. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on December 3, 2009, and the Clerk of Court entered Petitioner's "Answer" to the Report on December 14, 2009. In his submission, Petitioner agrees that the Petition should be dismissed.

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court adopts the Report, and incorporates it herein. Therefore, it is the judgment of this Court that the Petition in the above matter be **DISMISSED** without prejudice and without requiring Respondent to file an answer.

IT IS SO ORDERED.

Signed this 14th day of December, 2009, in Spartanburg, South Carolina.

s/ Henry F. Floyd
HENRY F. FLOYD
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.